

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,358	03/03/2004	Charles L. Branch	MSDI-90/PC689.02	4260
52196 7590 06/27/2007 KRIEG DEVAULT LLP ONE INDIANA SQUARE, SUITE 2800			EXAMINER	
			PHILOGENE, PEDRO	
INDIANAPOLIS, IN 46204-2709			ART UNIT	PAPER NUMBER
			3733	
			MAIL DATE	DELIVERY MODE
			06/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Exercision from map be assisted under the provisions of 37 CPR 1.136(a). In or event, however, may a reby be timely filed.  If NO period for reply is specified above, the maximum statutory period will apply and will expire Stx (6) MONTHS from the mailing date of this communication. Failure to reply within the stor or contended private for reply will, by status, cause the application to become ABADONED (38 U.S. 6.133). Any reduce any secret patient term adjustment. Size 37 CPR 1.704(b).  Status  1) Responsive to communication(s) filled on 16 April 2007.  2a) This action is FINAL.  2b) This action is FINAL.  2b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1-51 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 1-51 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) Claim(s) 1-617-19.21 and 28-51 is/are allowed.  6) Claim(s) 1-617-19.21 and 28-52 is/are rejected.  7) Claim(s) 20 and 22 (s/are objected to by the Examiner.  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Application Papers  9) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) Mone of:  1 Certified copies of the priority documents have been received in Application No.  2 Certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17-2(a)).  *See the attached detailed Office action for a list of the certified copies not received.			$\mathcal{M}$					
Examiner Pedro Philogene 3733  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION Examinon of time may be available under the provisions of 3° CFH 1.13(b), in no event, however, may a repy to brinshy field - If ND period for reply is specified above, he maintain mailurity period will apply and will applied 31(6) MONTH'S from the mailing date of this communication, - Failure to reply within the set or extended period for reply with by statutory period will applied alto with Communication, - Failure to reply within the set or extended period for reply with by statutory period will applied alto MONTH'S from the mailing date of this communication, - Failure to reply within the set or extended period for reply with by statutory period will applied about the communication (51 US U.S. C. 9 113), - Failure to reply within the set or extended period for reply with by statutory period will applied about the communication, to see the application to become ARANDONED (31 US C. 9 113).  This action is FINAL.  2(b) This action is non-final.  3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) Claim(s) 1.51 is/are pending in the application.  4) Claim(s) 1.51 is/are pending in the application.  4) Claim(s) 1.51 is/are pending in the application.  5) Claim(s) 1.51 is/are allowed.  6) Claim(s) 1.51 is/are allowed.  6) Claim(s) 2.0 and 22 state objected to by the Examiner.  7) Claim(s) 2.0 and 22 state objected to by the Examiner.  8) The pendication is objected to by the Examiner.  9) The provision of field on state and provision is required if the drawing(s) is objected to See 37 CFR 1.121(d).  1) The cath or declaration is object		Application No.	Applicant(s)					
Pedro Philogene  3733  - The MAILING DATE of this communication appears on the cover sheet with the correspondence address −  Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Description of the property of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  **See the attached detailed Office action for a list of the certified copies not received.		10/792,358	BRANCH ET AL.					
— The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Reply  A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Exercision film empty be validable under the provision of 3 /r CF1 1.35(a). In no event however, may a reply be timely level after 60 /k (6) MONTHS from the malling date of this communication. 5 /r Pallut on representative within the set or exceeded period for rejival, bit y status, cause the application become ARANDORD (3 s U S C 1 status). Any reply received by the Office later than three months after the malling date of this communication, even if timely filed, may reduce any seamed placetic met adjustment. See 37 CFR 1.764(b).  Status  1) □ Responsive to communication(s) filed on 16 April 2007.  2a) □ This action is FINAL.  2b) □ This action is non-final.  3) □ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) □ Claim(s) 1.61 is/are pending in the application.  4a) Of the above claim(s)	Office Action Summary	Examiner	Art Unit					
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  - bearington of time may be available under the provisions of 37 CFR 1.136(a). In one went, however, may a reply be timely filled.  - bearington of time may be available under the provisions of 37 CFR 1.136(a). In one went, however, may a reply be timely filled to reply in sponda down, the maximum traturory period was provided to reply in sponda down, the maximum traturory period was provided to reply within the set of extended period for reply will, by attacks, cause the application to become ABANDONED (38 U.S.C. § 133). Any reply received by the Office are than these normal mattering provided in the communication. Period (19) and pay to set of the communication o		Pedro Philogene	3733					
WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.  Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event 136(b). In the work of time may be available under the provisions of 37 CFR 1.136(a). In no event 136(b). In 136(b). I	The MAILING DATE of this communication ap Period for Reply	ppears on the cover shee	with the correspondence address					
1) ⊠ Responsive to communication(s) filed on 16 April 2007.  2a) ☐ This action is FINAL. 2b) ☑ This action is non-final.  3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☑ Claim(s) 1.51 is/are pending in the application. 4a) Of the above claim(s)	WHICHEVER IS LONGER, FROM THE MAILING I  - Extensions of time may be available under the provisions of 37 CFR 1 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory perior  - Failure to reply within the set or extended period for reply will, by statu Any reply received by the Office later than three months after the mail	DATE OF THIS COMMU. .136(a). In no event, however, mad d will apply and will expire SIX (6) In the, cause the application to become	NICATION. y a reply be timely filed  MONTHS from the mailing date of this communication. e ABANDONED (35 U.S.C. § 133).					
2a) ☐ This action is FINAL. 2b) ☑ This action is non-final.  3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4) ☑ Claim(s) 1.51 is/are pending in the application.  4a) Of the above claim(s) is/are withdrawn from consideration.  5) ☑ Claim(s) 7.16 and 26.51 is/are allowed.  6) ☑ Claim(s) 1.6.17-19.21 and 23-25 is/are rejected.  7) ☑ Claim(s) 20 and 22 is/are objected to.  8) ☐ Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) ☐ The specification is objected to by the Examiner.  10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.15(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.	Status							
3	1) Responsive to communication(s) filed on 16.	April 2007.	•					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.  Disposition of Claims  4)  Claim(s) 1-51 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) 7-16 and 26-51 is/are allowed. 6)  Claim(s) 1-6.17-19.21 and 23-25 is/are rejected. 7)  Claim(s) 20 and 22 is/are objected to. 8)  Claim(s) are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner. 10)  The drawing(s) filed on is/are: a)  correction is required if the drawing(s) is objected to. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a)  All b)  Some * c)  None of: 1.  Certified copies of the priority documents have been received. 2.  Certified copies of the priority documents have been received in Application No 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.	2a) ☐ This action is <b>FINAL</b> . 2b) ☑ Th	_ · · · · <del> _ · · · </del>						
4)  Claim(s) 1-51 is/are pending in the application. 4a) Of the above claim(s) is/are withdrawn from consideration.  5)  Claim(s) 7-16 and 26-51 is/are allowed. 6)  Claim(s) 1-6.17-19.21 and 23-25 is/are rejected. 7)  Claim(s) 20 and 22 is/are objected to. 8)  Claim(s) are subject to restriction and/or election requirement.  Application Papers  9)  The specification is objected to by the Examiner. 10)  The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1.  Certified copies of the priority documents have been received. 2.  Certified copies of the priority documents have been received in Application No 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.	·							
4a) Of the above claim(s) is/are withdrawn from consideration.  5) □ Claim(s) 7-16 and 26-51 is/are allowed.  6) □ Claim(s) 1-6,17-19.21 and 23-25 is/are rejected.  7) □ Claim(s) 20 and 22 is/are objected to.  8) □ Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) □ The specification is objected to by the Examiner.  10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) □ All b) □ Some * c) □ None of:  1. □ Certified copies of the priority documents have been received.  2. □ Certified copies of the priority documents have been received in Application No  3. □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.	Disposition of Claims	•	•					
4a) Of the above claim(s) is/are withdrawn from consideration.  5) □ Claim(s) 7-16 and 26-51 is/are allowed.  6) □ Claim(s) 1-6,17-19.21 and 23-25 is/are rejected.  7) □ Claim(s) 20 and 22 is/are objected to.  8) □ Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) □ The specification is objected to by the Examiner.  10) □ The drawing(s) filed on is/are: a) □ accepted or b) □ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) □ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) □ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) □ All b) □ Some * c) □ None of:  1. □ Certified copies of the priority documents have been received.  2. □ Certified copies of the priority documents have been received in Application No  3. □ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.	4) ☐ Claim(s) 1-51 is/are pending in the application	on.						
6) Claim(s) 1-6.17-19.21 and 23-25 is/are rejected.  7) Claim(s) 20 and 22 is/are objected to.  8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.								
7)  Claim(s) 20 and 22 is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement.  Application Papers  9) The specification is objected to by the Examiner. 10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.								
Application Papers  9) ☐ The specification is objected to by the Examiner.  10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☒ Notice of References Cited (PTO-892)	6)⊠ Claim(s) <u>1-6,17-19,21 and 23-25</u> is/are rejec							
Application Papers  9) ☐ The specification is objected to by the Examiner.  10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☑ Notice of References Cited (PTO-892)	•	)⊠ Claim(s) <u>20 and 22</u> is/are objected to.						
9) The specification is objected to by the Examiner.  10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.	8) Claim(s) are subject to restriction and	or election requirement.						
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☑ Notice of References Cited (PTO-892)	Application Papers							
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☑ Notice of References Cited (PTO-892)	9) The specification is objected to by the Examin	ner.						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No.  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)	· - ·							
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.  Priority under 35 U.S.C. § 119  12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☒ Notice of References Cited (PTO-892)								
Priority under 35 U.S.C. § 119  12)	Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).							
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  a) All b) Some * c) None of:  1. Certified copies of the priority documents have been received.  2. Certified copies of the priority documents have been received in Application No  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)	11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.							
a) ☐ All b) ☐ Some * c) ☐ None of:  1. ☐ Certified copies of the priority documents have been received.  2. ☐ Certified copies of the priority documents have been received in Application No  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☑ Notice of References Cited (PTO-892)  4) ☐ Interview Summary (PTO-413)	Priority under 35 U.S.C. § 119							
<ul> <li>2. ☐ Certified copies of the priority documents have been received in Application No</li> <li>3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> <li>* See the attached detailed Office action for a list of the certified copies not received.</li> <li>Attachment(s)</li> <li>1) ☑ Notice of References Cited (PTO-892)</li> <li>4) ☐ Interview Summary (PTO-413)</li> </ul>								
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☑ Notice of References Cited (PTO-892)  4) ☐ Interview Summary (PTO-413)	,— ,— ,—							
application from the International Bureau (PCT Rule 17.2(a)).  * See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) ☑ Notice of References Cited (PTO-892)  4) ☐ Interview Summary (PTO-413)	2. Certified copies of the priority documents have been received in Application No							
* See the attached detailed Office action for a list of the certified copies not received.  Attachment(s)  1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)	3. Copies of the certified copies of the priority documents have been received in this National Stage							
Attachment(s)  1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)	••							
1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)	* See the attached detailed Office action for a li	st of the certified copies	not received.					
1) Notice of References Cited (PTO-892)  4) Interview Summary (PTO-413)	Attachment(s)							
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  Paper No(s)/Mail Date  Notice of Informal Patent Application	2) Notice of Draftsperson's Patent Drawing Review (PTO-948)							
3) Information Disclosure Statement(s) (PTO/SB/08)  Paper No(s)/Mail Date 4/16/07.  5) Notice of Informal Patent Application 6) Other:		·						

Application/Control Number: 10/792,358 Page 2

Art Unit: 3733

#### Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/16/07 has been entered.

## **Priority**

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 10/180,658 filed 6/26/02 now Patent # 6,945,933, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. The subject matter of this application was first presented for examination on 3/3/04, therefore, the priority date accorded to this application is the filing date of 3/3/04.

### Claim Rejections - 35 USC § 103

Application/Control Number: 10/792,358

Art Unit: 3733

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6, 17,21,23,24,25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grieshaber (2,693,795) in view of Healy (4,380,999).

With respect to claim 1, Grieshaber discloses a retractor assembly comprising a first retractor portion (31) having a proximal end and a distal end and being positionable in an incision; a second retractor portion (39) having a proximal end and a distal end and being positionable in the incision opposite the first retractor portion, the first and second retractor portions defining an axis extending there between; a separation instrument (10) coupled between the proximal ends of the first and second retractor portions and being offset to one side of the axis; as best seen in FIG.1, the separation instrument being operable to move the first and second retractor portions along the axis from an insertion configuration wherein the first and second retractor portions are adjacent one another to a second configuration wherein the first and second portions are separated from one another; and an intermediate retractor assembly (13) removably mountable to the separation instrument, the intermediate retractor assembly including a linking arm (46) extending from the separation instrument toward the first and second retractor portions to a retractor blade (64), the retractor blade being transversely oriented to the linking arm and being positionable in the incision between the first and second retractor portions when the linking arm is mounted to the separation instrument

Application/Control Number: 10/792,358

Art Unit: 3733

and the first and second retractor portions are in the second configuration.; as set forth in column 2, lines 20-80, column 3, lines 1-85, column 4, lines 173; and as best seen in FIGS.1-9.

With respect to claims 6,17,18,21,23-25, Grieshaber discloses all the limitations; as set forth in column 2, lines 20-80, column 3, lines 1-85, column 4, lines 173; and as best seen in FIGS.1-9.

It is noted that Grieshaber did not teach of a linking arm including a hook portion; as claimed by applicant. However, in a similar art, Healy evidences the use of retractor having a linking arm including a hook portion for engaging or hooking a separation instrument.

Therefore, given the teaching of Healy, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of Grieshaber, as taught by Healy to engage or hook a separation instrument.

Claims 18,19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grieshaber (2,693,795) in view of Healy (4,380,999) in view of Koros et al. (6,139,493)

With respect to claims 18,19, it is noted that the above combination of references did not teach of intermediate third and fourth retractor portions; as claimed by applicant. However, in a similar art, Koros et al evidences the use of a third and fourth retractor portions to provide a clearer or greater view of the operating site.

Therefore, given the teaching of Koros, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device of

Art Unit: 3733

Grieshaber/Healy, as taught by Koros et al to provide a clearer or greater view of the operating site.

# Allowable Subject Matter

Claims 20,22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 7-16,26-51 are allowed.

### Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6,196,969 3-2001 Bester et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pedro Philogene whose telephone number is (571) 272-4716. The examiner can normally be reached on Monday to Friday 6:30 AM to 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272 - 4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Application/Control Number: 10/792,358

Art Unit: 3733

Page 6

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pedro Philogene June 14, 2007 PEDRO PHILØGENE PRIMARY EXAMINER